

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

THE DEPARTMENT OF TRANSPORTATION OF THE
STATE OF ILLINOIS, FOR AND ON BEHALF OF THE
PEOPLE OF THE STATE OF ILLINOIS,

Petitioner,

v.

UNION PACIFIC RAILROAD COMPANY, A DELAWARE
CORPORATION, HOLDING TITLE AS THE
CHICAGO AND NORTHWESTERN RAILROAD
COMPANY; AND UNKNOWN OWNERS,

Respondents.

Petition for approval of the taking or damaging owned by a
common transportation carrier in Cook County, Illinois by
exercising the right of eminent domain of certain properties.
Job No. R90-003-06; Parcel Nos. 0G30007PE-A & B
and Parcel Nos. 0G30007TE-A, B, C & D.

THE VILLAGE OF ARLINGTON HEIGHTS,

Petitioner,

v.

UNION PACIFIC RAILROAD AND THE DEPARTMENT
OF TRANSPORTATION OF THE STATE OF ILLINOIS,

Respondents.

Petition for an Order of the Illinois Commerce Commission,
pursuant to 625 ILCS 5/18c-7401, allowing modification to
grade crossing at Arthur Avenue and E. Davis Street.

T07-0073

Consolidated with

T08-0154

**PETITIONERS' MOTION FOR EXTENSION OF TIME
TO RESPOND TO RESPONDENT'S MOTION TO STAY AND
DISMISS FOR LACK OF JURISDICTION**

The Department of Transportation of the State of Illinois (the "Department") and the Village of Arlington Heights (the "Village"), through their attorneys move pursuant to Section 200.190(a) of the Rules of Practice, 83 Ill. Adm. Code 200.190(a), for an Order of Extension of Time to file their responses to Union Pacific Railroad Company's ("Union Pacific") Motion To

Stay and Dismiss For lack of Jurisdiction (the "Union Pacific Motion") until August 24, 2009, and in support state:

1. The initial Petition in this matter, Docket No. T07-0073, was filed by the Department on September 10, 2007 seeking the Commission's approval of the taking of certain real estate owned by Union Pacific through the exercise of eminent domain for the Department's project to widen, reconstruct and improve FAU 3512 (US 14) at Arthur Avenue in the Village of Arlington Heights, Cook County, Illinois.

2. The Village filed its petition in Docket No. T08-154 on November 5, 2008 requesting the Commission's approval to allow modifications of the railroad crossing at the US 14 / East Davis Street / Arthur Avenue intersection located in Arlington Heights, Cook County, Illinois.

3. The Administrative Law Judge consolidated Dockets Nos. T07-0073 and T08-0154 on November 30, 2008, as both cases involve the US Route 14 / East Davis Street / Arthur Avenue intersection located in the Village of Arlington Heights.

4. An evidentiary hearing on the Petitions was held on December 12, 2008, during which all parties presented testimony and exhibits and after which the record was marked "Heard and Taken."

5. On June 1, 2009, the Commission served a Proposed Order on the parties granting the Petitions of the Department and the Village.

6. On August 4, 2009, the Department and the Village received the Notice of Administrative Law Judge's Ruling entered July 30, 2009 directing them to file their Responses to the Union Pacific Motion within ten (1) days from the date of the order. In the Union Pacific Motion, Union Pacific states that on July 28, 2009 it filed a Complaint for Declaratory Judgment

and Injunction in the United States District Court, Northern District of Illinois, and Eastern Division.

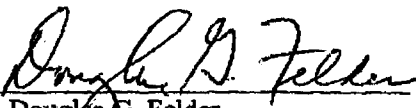
7. The Department and the Village require additional time to analyze the issues and to fully respond to the Union Pacific's Motion.

8. Having waited almost two years to assert a claim of preemption in this proceeding, Union Pacific should not be prejudiced by the granting of an extension of time for the Village and the Department to respond.

WHEREFORE, the Department and the Village respectfully request additional time to file their responses to the Union Pacific's Motion to Stay and Dismiss For Lack of Jurisdiction until August 24, 2009.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

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) T07-0073

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and E. Davis Street.)

NOTICE OF FILING

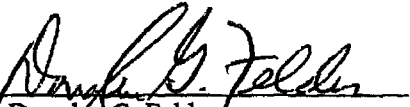
To: See Attached Service List

PLEASE TAKE NOTICE that the Petitioners, the Department of Transportation of the State of Illinois and the Village of Arlington Heights, by and through their counsel, hereby file Petitioners' Motion For Extension of Time to Respond to Motion to Stay and Dismiss for Lack of Jurisdiction, a copy of which is attached and hereby served upon you.

Respectfully submitted,

ILLINOIS DEPARTMENT OF TRANSPORTATION

By:

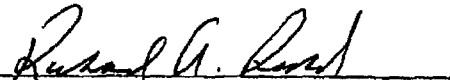


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CERTIFICATE OF SERVICE

I, Richard A. Redmond, an attorney, hereby certify that I caused to be served the foregoing Petitioner's Motion for Extension of Time to Respond to Respondent's Motion to Stay and Dismiss for Lack of Jurisdiction upon the individuals on the attached service list by first class U.S. mail postage prepaid on August 10, 2009.



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